

TEXAS WATER COMMISSION

Paul Hopkins, Chairman
John O. Houchins, Commissioner
B. J. Wynne, III, Commissioner



Larry R. Soward, Executive Director

James K. Rourke, Jr., General Counsel
Michael E. Field, Chief Examiner
Karen A. Phillips, Chief Clerk

October 15, 1987

Ms. S. Lynn Mays, P.E.
Camp Dresser & McKee, Inc.
Arboretum Plaza Two, Suite 400
9442 Capital of Texas Highway North
Austin, Texas 78759

Re: North Cavalcade

Dear Ms. Mays:

As discussed in our October 13, 1987 meeting, attached are the Harris-Galveston Coastal Subsidence District Rules governing ground water withdrawal in Harris and Galveston Counties. Mr. John Hopkins requested a copy of these rules.

At this time, no determination has been made about the applicability of these rules to any remedial alternative for the North Cavalcade site.

Very truly yours,

A handwritten signature in cursive script, reading "Joe H. Brown".

Joe H. Brown
Remedial Investigation Unit
Superfund Section
Hazardous and Solid Waste Division

JHB:bt

cc: Jim Pendergast, EPA, Dallas ✓

Attachment

004814

HARRIS-GALVESTON COASTAL SUBSIDENCE DISTRICT

Rules

AMENDED
JUNE 13, 1979

004815

**RULES FOR HARRIS-GALVESTON
COASTAL SUBSIDENCE DISTRICT**

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SECTION 1. DEFINITIONS AND CONCEPTS

RULE 1.1 DEFINITIONS OF TERMS: In the administration of its duties, the Harris-Galveston Coastal Subsidence District follows the definitions of terms set forth in the Harris-Galveston Coastal Subsidence District's Enabling Act and other appropriate definitions as follows:

- a. "Person" includes corporation, individual, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.
- b. "District" means the Harris-Galveston Coastal Subsidence District.
- c. "Board" means the board of directors of the District.
- d. "Groundwater" means water located beneath the earth's surface within the District but does not include water produced with oil in the production of oil and gas.
- e. "Well" means any facility, device, or method used to withdraw groundwater from the groundwater supply within the District.
- f. "Withdraw" means the act of extracting groundwater by pumping or some other method.
- g. "Drill" means drilling, equipping, or completing wells or substantially altering the size of wells or well pumps.
- h. "Subsidence" means the lowering in elevation of the surface of land by the withdrawal of groundwater.
- i. "Permit" means a water well permit issued or to be issued by the District allowing the withdrawal of groundwater for a designated period.
- j. "District Office" means the central offices of the District at 1730 Nasa Road I, Building II, in Harris County, Texas, or such other location as may be selected by the District.
- k. "Act" means the District's enabling legislation, Tex. Laws 1975, Chapter 284, V.A.T.S. Water Auxiliary Laws, Table III, as amended by H.B. 390, Acts of the 65th Legislature.
- l. "Hearing body" means the Board, any committee thereof or a Hearing Examiner at any hearing held under the authority of the Act.

- m. "Water meter" means a water flow measurement device capable of measuring and recording the actual volume of groundwater produced during a measured time period.
- n. "Secondary measuring device" or "SMD" means an instrument which will yield data permitting the calculation of groundwater production.
- o. "Irrigation well system" means a system which discharges directly into an open canal and is used for the irrigation of agricultural crops.
- p. "Presiding officer" means the Chair, Vice-Chair, Secretary or other Board member presiding at any hearing or other proceeding or a Hearing Examiner conducting any hearing or other proceeding.
- q. "Agricultural crops" mean food or fiber commodities grown for resale or commercial purposes to feed or clothe man or animal.
- r. "Rules" means the rules and regulations compiled in this document and as may be supplemented or amended from time to time.
- s. "Hearing Examiner" means a District employee designated by the General Manager to conduct a hearing.

RULE 1.2 PURPOSE OF RULES: These Rules are adopted pursuant to the directive of Section 13(a) of the Act for the purpose of facilitating the accomplishment of the purposes of the Act.

RULE 1.3 USE AND EFFECT OF RULES: These Rules are used by the District as guides in the exercise of the powers conferred by law and in the accomplishment of the purposes of the Act. They shall not be construed as a limitation or restriction on the exercise of any discretion, where it exists; nor shall they be construed to deprive the District or Board of the exercise of any powers, duties or jurisdiction conferred by law; nor shall they be construed to limit or restrict the amount and character of data or information which may be required to be collected for the proper administration of the Act.

RULE 1.4 AMENDING OF RULES: The Board may, following notice and hearing, amend these Rules or adopt new Rules from time to time.

RULE 1.5 HEADINGS AND CAPTIONS: The section and other headings and captions contained in these Rules are for reference purposes only and shall not affect in any way the meaning or interpretation of these Rules.

RULE 1.6 GENDER: Use of masculine pronouns for convenience purposes in these Rules shall include references to persons of feminine gender where applicable. Words of any gender used in these Rules shall be held and construed to include any other gender, and words in singular number shall be held to include the plural and vice versa, unless context requires otherwise.

RULE 1.7 SEVERABILITY: In case any one or more of the provisions contained in these Rules shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other Rules or provisions hereof and these Rules shall be construed as if such invalid, illegal or unenforceable rule or provision had never been contained herein.

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SECTION 2. BOARD

RULE 2.1 PURPOSE OF BOARD: The Board was created to determine policy and regulate the withdrawal of groundwater within the boundaries of the District for the purpose of ending subsidence which contributes to or precipitates flooding, inundation, or overflow in any area within the District, including without limitation rising water resulting from storms or hurricanes, and to exercise its rights, powers, and duties in a manner that will effectively and expeditiously accomplish the purposes of the Act. The Board's responsibilities include the adoption and enforcement of reasonable rules, regulations and orders for withdrawal of groundwater which take into account all factors, including availability of surface water, economic impact upon persons and the community, degree and effect of subsidence upon the surface of the land, and differing topographical and geophysical characteristics of land areas within the District.

RULE 2.2 BOARD STRUCTURE, OFFICERS: The Board consists of fifteen members selected and qualified as required by the Act. Each year at its first meeting after the new directors take office, the Board shall select one of its members to serve as Chair to preside over Board meetings and proceedings, one to serve as Vice-Chair, to preside in the absence of the Chair, and one to serve as Secretary, to keep a true and complete account of all meetings and proceedings.

RULE 2.3 MEETINGS: The Board shall hold a regular monthly meeting on the second Wednesday of each month or as the Board may establish from time to time by resolution. At the request of the Chair, or by written request of at least three members, the Board may hold special meetings. All such meetings shall be open to the public in accordance with the Texas Open Meetings Law. To the extent necessary for orderly conduct of proceedings, the guidelines of "Parliamentary Procedure at a Glance", New Edition, by O. Garfield Jones, 1971 revised edition may be followed.

RULE 2.4 COMMITTEES: The Chair may establish and designate Board members for advisory committees, and appoint their chairmen, for formulation of policy recommendations to the Board or for such other purposes as the Chair may designate. All meetings of such committees shall be open to the public as provided in the Texas Open Meetings Law.

SECTION 3. GENERAL MANAGER

RULE 3.1 GENERAL MANAGER: The person employed by the Board as General Manager shall be the chief administrative officer of the District and shall have full authority to manage and operate the affairs of the District, subject only to Board orders. The General Manager is responsible for employing all persons necessary for the proper handling of the business and operation of the District and determining their compensation.

RULE 3.2 DELEGATION OF AUTHORITY: The General Manager may delegate his administrative duties as may be necessary to effectively and expeditiously accomplish his duties, provided, however, that no such delegation shall ever relieve him from responsibilities which are ultimately his under the Act or Board orders.

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SECTION 4. DISTRICT

RULE 4.1 DISTRICT ADDRESS: The District's mailing address is 1660 West Bay Area Boulevard, Friendswood, Texas 77546. Such addresses may be changed by resolution of the Board.

RULE 4.2 MINUTES AND RECORDS OF THE DISTRICT: All documents, reports, records and minutes of the District shall be available for public inspection in accordance with the Texas Open Records Act. Upon application of any person, the District, when appropriate, will furnish copies, certified or otherwise, of any of its proceedings or other official acts of record or of any paper, map or document files in the District Office. Certified copies shall be made under the hand of the Secretary and affixed with the seal of the District. Persons who are furnished any such copies may be assessed a charge therefor, pursuant to policies established by the General Manager based on the reasonable costs of furnishing such copies.

RULE 4.3 OFFICE HOURS: The regular office hours of the District shall be 8:00 a.m. to 5:00 p.m., Monday through Friday, except for District Holidays, or as may be set from time to time by the General Manager.

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SECTION 5. HEARINGS AND PROCEEDINGS

RULE 5.1 TYPES OF HEARINGS: The Act provides for two general types of hearings, those involving permits, including applications, amendments, renewals, and revocation, and those involving policy matters, such as Rules, District Plan, Determination of Annual Groundwater Withdrawal Effects, Well Spacing, Well Metering, and Permit Fees. All hearings involving permits are to be scheduled before a Hearing Examiner except appellate hearings and those hearings involving permits which the Board determines that it shall hear. All other hearings involving policy matters are to be heard by the Board except where the Board specifically determines that the matter will be heard by a Hearing Examiner. A public hearing may be held on any matter within the jurisdiction of the Board if the Board, or the General Manager when authorized by the Board, deems a hearing to be in the public interest, or if the Board, or the General Manager when authorized by the Board, deems a hearing necessary to carry out effectively the duties and responsibilities of the District.

RULE 5.2 SCHEDULING OF HEARINGS: The Board at a regular meeting has set Tuesday, Wednesday, and Thursday of each week, except District holidays, as hearing dates, 9:00 a.m., when before the Hearing Examiner, and 10:00 a.m., when before the Board, as the hearing time on such dates, and the District Office as the place for hearings on matters involving permits, provided that the Board may from time to time change or schedule additional dates, times and places for such hearings by resolution adopted at a regular Board meeting. The General Manager is authorized to schedule applicants for matters involving permits for such dates, times and places set by the Board for hearings on matters involving permits as he deems administratively feasible and appropriate. Other hearings involving policy matters shall be scheduled at dates, times and locations set at a regular Board meeting.

RULE 5.3 GENERAL PROCEDURE: The presiding officer may conduct the hearing or other proceeding in the manner he deems most appropriate for the particular proceeding. Technical rules for legal and court proceedings do not apply. Any interested person may appear or send counsel with evidence, exhibits, or testimony. The applications and pleadings of every party, applicant or protestant to, and the testimony or evidence offered in support thereof, will be considered or presented in conformity with these Rules. To the extent necessary for orderly conduct of proceedings, the presiding officer may follow the guidelines and rules of "Parliamentary Procedures at a Glance", New Edition, by O. Garfield Jones, 1971 revised edition. Testimony in each proceeding shall be taken under oath. Hearings or other proceedings may be recessed from day to day or continued to a specific date, time and place by the presiding officer.

RULE 5.4 NOTICE OF HEARINGS: The General Manager shall be responsible for giving notice of hearings in the following manner:

Written notice of a hearing shall be given to each county and municipal government within the District. Notice shall also be given to each person that the Board has reason to believe has an interest in the subject matter to be dealt with at the hearing, which shall be those persons who have previously requested copies of hearing notices, pursuant to procedures established by the General Manager, and any others that the General Manager deems appropriate. The date of delivery or mailing of notice shall be not less than twenty (20) days before the date set for the hearing.

Notice of a hearing shall be published at least once in a newspaper of general circulation in each county within the District. The date of publication shall be not less than twenty (20) days before the date set for the hearing.

A copy of the notice shall be posted at the county courthouse of each county within the District in the place where notices are usually posted. The date of posting shall be not less than twenty (20) days before the date of the hearing.

In addition to the notices required above, where a hearing involves a permit matter, notice of the date, time and location of the hearing shall be given to the applicant by certified mail, return receipt requested, at least twenty (20) days before the day of the hearing.

RULE 5.5 TIME LIMIT: Applications, motions, exceptions, communications, requests, briefs or other papers and documents required to be filed under these Rules or by law must be received in hand at the District's Office within the time limit, if any, for filing. Mailing within the time period is insufficient.

RULE 5.6 COMPUTING TIME: In computing any period of time specified by these Rules, by Board orders or by law, the day of the act, event or default after which the designated period of time begins to run is not included, but the last day of the period computed is included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday.

RULE 5.7 AGREEMENT TO BE IN WRITING: No agreement between parties which affects any pending hearing or other proceeding shall be considered unless it is in writing, signed and filed with the papers as a part of the record, or unless it is announced at the hearing or other proceeding and entered into the record by agreement of the parties to the hearing or other proceeding.

RULE 5.8 AFFIDAVIT: Whenever the making of an affidavit by a party to a hearing or other proceeding is necessary, it may be made by the party or his representative. This Rule does not dispense with the necessity of an affidavit being made by a party when expressly required by statute.

RULE 5.9 FURNISHING COPIES OF PLEADINGS: After appearances have been entered of record in a hearing or other proceeding, when the presiding officer requires a copy of any pleading or motion in a hearing or other proceeding, it shall be mailed to each party of record or his attorney of record. A certificate of service shall accompany the original of the instrument filed with the presiding officer.

SECTION 5.10 BROADENING THE ISSUES: No appearance will be permitted in any hearing or other proceeding that will unduly broaden the issues to be considered in the hearing or other proceeding.

RULE 5.11 COMPELLING TESTIMONY, SWEARING WITNESSES AND SUBPOENA POWER: The presiding officer may compel the testimony of any person which is necessary, helpful, or appropriate to the hearing or other proceeding. The presiding officer may administer oaths to persons who testify.

The presiding officer may issue a subpoena for any witness who may be represented to reside or have a place of business within the District. The presiding officer shall issue a separate subpoena, together with a copy thereof, for each witness subpoenaed. The presiding officer may also issue a subpoena to command the person to whom it is directed to produce the books, papers, documents or tangible things designated therein; but the presiding officer, on motion made at or before the time specified in the subpoena for compliance therewith, may quash or modify the subpoena if it is unreasonable or oppressive; or condition denial of the motion to quash or modify upon the advancement by the person in whose behalf the subpoena is issued, of the reasonable costs of producing the books, papers, documents or tangible things.

Any subpoena which the presiding officer shall issue, shall be in the following form:

THE STATE OF TEXAS

TO ANY SHERIFF OR CONSTABLE OF THE STATE OF TEXAS,
GREETING:

YOU ARE HEREBY COMMANDED that you summon _____
of _____ in _____ County, Texas, and
who is within the subpoena power of the HARRIS-GALVESTON
COASTAL SUBSIDENCE DISTRICT pursuant to Sec. 15, of House

Bill 552, Acts 64th Legislature, in which a _____ is pending, to be and appear before the HARRIS-GALVESTON COASTAL SUBSIDENCE DISTRICT at _____ Texas, on the _____ day of _____, A.D., 19____, then and there to testify as a witness, in a certain matter now pending before said HARRIS-GALVESTON COASTAL SUBSIDENCE DISTRICT, on the docket of said HARRIS-GALVESTON COASTAL SUBSIDENCE DISTRICT and produce before said HARRIS-GALVESTON COASTAL SUBSIDENCE DISTRICT at said time and place, _____, desired as evidence in said matter, and there attend the HARRIS-GALVESTON COASTAL SUBSIDENCE DISTRICT from day to day, and from term to term, until lawfully discharged.

ISSUED this _____ day of _____, 19____, and at the instance of the _____ of HARRIS-GALVESTON COASTAL SUBSIDENCE DISTRICT.

Herein Fail Not, but of this Writ make due return, showing how you have executed the same.

WITNESS my official signature, at _____, on this the _____ day of _____, A.D., 19____.

(SEAL)

The General Manager shall assist in implementing the issuance of subpoenas, which may be executed and returned at any time, and shall be served by delivering a copy of such subpoena to the witness; and service thereof may be accepted by any witness by a written memorandum, signed by such witness, attached to the subpoena. Every witness summoned in any matter shall attend until discharged by the presiding officer. If any witness, after being duly summoned, shall fail to attend, such witness may be cited by the presiding officer for contempt and an attachment may issue against the body of such witness to compel the attendance of such witness. Any witness refusing to give evidence may be committed to jail, there to remain without bail until such witness shall consent to give evidence. The Board through its Chair may issue subpoenas for the same purposes and in the same manner to compel testimony and evidence at Board meetings or other proceedings.

RULE 5.12 CONTINUANCE: The presiding officer may continue hearings or other proceedings from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing a new notice. If a hearing or other proceeding is continued and a

time and place (other than the District Office) for the hearing or other proceeding to reconvene are not publicly announced at the hearing or other proceeding by the presiding officer before it is recessed, a notice of any further setting of the hearing or other proceeding shall be mailed in the manner prescribed in Rule 5.4, at a reasonable time which may be less than twenty (20) days prior to the new setting, but it is not necessary to publish a newspaper notice of the new setting.

RULE 5.13 PROCEDURAL POWERS: The presiding officer holding the hearing or other proceeding is empowered to administer oaths and receive evidence in the hearing or other proceeding. Except where otherwise specifically authorized in these Rules, all orders entered in connection with the hearing or other proceeding shall be made by and in the name of the District. A Hearing Examiner may hear any subject set for hearing and delegated to him, according to these Rules, so long as the final decision on the subject is made by the Board.

RULE 5.14 TESTIMONY: Each individual attending a hearing or other proceeding of the District will be required to submit a card giving the following information: name; address; whether the person plans to testify; and any other information relevant to the hearing or other proceeding.

RULE 5.15 APPEARANCE IN REPRESENTATIVE CAPACITY: An appearance may be made in person or by a representative provided the representative is fully authorized to speak and act for the principal. Any member of a partnership may appear for the partnership. A duly authorized officer of a public or private corporation, political subdivision, governmental agency, municipality, association, firm, or other entity may appear for the entity. A fiduciary may appear for his ward, trust, or estate. All parties appearing must conform to ethical standards of conduct.

RULE 5.16 NUMBER OF COUNSEL OR REPRESENTATIVES HEARD: The presiding officer may limit the number of counsel or representatives heard on any particular ruling to be made on any question or matter in the hearing or other proceeding, but shall allow at least one counsel or representative each for the proponents and opponents to be heard on the particular ruling.

RULE 5.17 APPEARANCE BY APPLICANT: The applicant or the party requesting the hearing or other proceeding or his representative should be present at appropriate hearings or other proceedings. Failure to so appear may be grounds for terminating the hearing or other proceeding or may require the rescheduling or continuance of the hearing or other proceeding if the presiding officer deems it necessary in order to fully develop the record.

RULE 5.18 REPORTING: Testimony adduced at a hearing or other proceeding shall be recorded electronically unless the presiding officer determines that recording of the hearing or other proceeding by a reporter and preparation of a transcript are needed.

If a hearing or other proceeding is recorded by a reporter, and a copy of the transcript of testimony is ordered by a party, the testimony shall be transcribed and the original transcript filed with the papers in the hearing or other proceeding. Copies of the transcript of testimony of any hearing or other proceeding thus reported may be purchased from the reporter. The District does not prepare transcriptions for the public of hearings or other proceedings recorded electronically on District equipment, but will arrange for a party at interest to have access to the electronic recording. Subject to availability of space, any party at interest may, at his own expense, arrange for a reporter to report the hearing or other proceeding or for electronic recording of the hearing or other proceeding.

RULE 5.19 ORAL ARGUMENTS: Oral arguments may be allowed by the presiding officer upon request therefor, but a reasonable time limit shall be fixed by the presiding officer.

RULE 5.20 BRIEFS: Prior to the closing of the hearing or other proceeding and upon request of the presiding officer or parties at interest, the presiding officer may authorize the presentation of briefs. The order of presenting briefs and the time periods shall be determined by the presiding officer following consultation with the parties present.

RULE 5.21 HEARING OR OTHER PROCEEDING BEFORE BOARD: At the conclusion of testimony and any oral argument offered at a hearing or other proceeding before the Board as the decision-making body, the presiding officer may then close the record or keep it open for the submission of briefs or exhibits. After the record is closed, the Board may then take the matter under advisement, continue it from day to day, reopen or rest the matter, refuse the action sought or grant the same in whole or in part, or take any other appropriate action.

RULE 5.22 HEARING OR OTHER PROCEEDING BEFORE HEARING EXAMINER: At the conclusion of testimony and any oral argument offered at a hearing or other proceeding before a Hearing Examiner or a committee of the Board not sitting as the decision-making body, the hearing body may then close the record or keep it open for the submission of briefs or exhibits as directed by the presiding officer. After the record is closed, the presiding officer shall prepare a report to the Board. The report shall include a summary of the subject of the hearing or other proceeding, a review of the evidence, the hearing body's recommendations, and other pertinent information. Such report shall be presented to the Board within thirty-five (35) days following the conclusion of

such hearing or other proceeding, unless the Board shall otherwise direct. Any party at interest who so requests in writing shall be notified when the report is ready and furnished a copy of the report. Within five (5) days of the date the report is furnished or under such reasonable time restrictions as the presiding officer may establish, any party at interest may make written exceptions to the report, and may request the opportunity to make an oral argument to the Board before it acts on the matter. The report of the hearing body, written exceptions, requests for oral arguments which are timely received, and such other information as the Board may specify shall be submitted to the Board. Prior to acting or after hearing oral arguments, the Board may return the record to the same or a different hearing body with instructions to reopen the record or to reopen both the record and the hearing or other proceeding for the purpose of developing additional evidence, or the Board itself may reopen for this purpose. When the matter is developed to the Board's satisfaction, it shall review the record of the hearing or other proceeding and all other pertinent information, and then take appropriate action.

RULE 5.23 FINAL DECISION, APPEAL: Any decision of the Board on a matter may be appealed by requesting a rehearing before the Board within ten (10) days of the Board's decision. Such a rehearing request must be filed at the District Office in writing and must state clear and concise grounds for the request. Such a rehearing request is mandatory with respect to any decision or action of the Board before any appeal may be brought under Section 36 of the Act. The Board will deny such request or schedule such rehearing within forty (40) days of the date of the request for rehearing. The Board's decision is final if no request for rehearing is made within the specified time, or upon the Board's denial of the request for rehearing, or upon rendering of decision in rehearing. As provided in Section 36, appeals from the Board's action must be brought within forty-five (45) days of the final decision. The failure of the Board to grant or deny the request for rehearing within forty (40) days shall be deemed to be a denial of the request.

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SECTION 6. EVIDENCE

RULE 6.1 REQUIREMENTS FOR EXHIBITS: Exhibits of documentary character should be of a size which does not unduly encumber the files and records of the agency. All exhibits shall be numbered, and, except for maps and drawings, the sheets of each exhibit shall be not more than 8-1/2 inches by 14 inches in size; and there shall be a brief statement on the first sheet of what the exhibit purports to show. Exhibits shall be limited to facts which are relevant and material to the issue involved.

RULE 6.2 INTRODUCTION OF EXHIBITS: The original of each exhibit offered shall be tendered to the presiding officer for identification. Sixteen copies shall be furnished to the District and three additional copies of the exhibit shall be furnished for use of the opposing counsel or parties. If the exhibit is admitted into evidence, the original shall be made a part of the record.

RULE 6.3 EXCLUDING EXHIBITS: In the event an exhibit has been identified, objected to, and excluded, the presiding officer shall determine whether the party offering the exhibit desires to withdraw the offer, and if so, shall permit the return of the exhibit to him. If the excluded exhibit is not withdrawn, it shall be given an exhibit number for identification and be included in the record solely for the purpose of preserving the exception together with the ruling thereon.

RULE 6.4 AUTHENTICATION OF DOCUMENTS: The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the document in question is what its proponent claims.

Illustrations. By way of illustration only, and not by way of limitation, the following are examples of authentication or identification conforming with the requirements of this rule:

Testimony of witness with knowledge. Testimony that a document is what it is claimed to be.

Nonexpert opinion on handwriting. Nonexpert opinion as to the genuineness of handwriting, based upon familiarity not acquired for purposes of the hearing.

Comparison by presiding officer or expert witness. Comparison by the presiding officer or by expert witnesses with specimens which have been authenticated.

Distinctive characteristics and the like. Appearance, contents, substance, internal patterns, or other distinctive characteristics, taken in conjunction with circumstances.

Public records or reports. Evidence that a writing authorized by law to be recorded or filed and in fact recorded or filed in a public office, or a purported public record, report, statement, or data compilation, in any form, is from the public office where items of this nature are kept.

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

Documents maintained in the files and records of the District.

Public documents under seal. A document bearing a seal purporting to be that of the United States, or of any state, political subdivision, department, officer, or agency thereof, and a signature purporting to be an attestation or execution.

Public documents not under seal. A document purporting to bear the signature in his official capacity of an officer or employee of any public governmental entity having no seal, if a public officer having a seal and having official duties in the political subdivision of the officer or employee certifies under seal that the signer has the official capacity and that the signature is genuine.

Certified copies of public records. A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification, by certificate.

Official publications. Books, pamphlets, or other publications purporting to be issued by public authority.

Newspapers and periodicals. Printed materials purporting to be newspapers or periodicals.

Trade inscriptions and the like. Inscriptions, signs, tags, or labels purporting to have been affixed in the course of business and indicating ownership, control, or origin.

Acknowledged documents. Documents accompanied by a certificate of acknowledgment under the hand and seal of a notary public or other officer authorized by law.

Commercial paper and related documents. Commercial paper, signatures thereon, and documents relating thereto to the extent provided by general commercial law.

Presumptions under statute. Any signature, document, or other matter declared by statute to be presumptively or prima facie genuine or authentic.

RULE 6.5 DOCUMENTS IN DISTRICT FILES: Any matter of official record in the District's files and records, if material and relevant, may be incorporated by reference by parties at interest, if the matter is specifically identified at the hearing or other proceeding so as to put all parties on notice.

RULE 6.6 ABSTRACTS OF DOCUMENTS: When documents are numerous, the presiding officer may elect to receive in evidence only those which are typical and representative; he may require the abstraction of relevant data from the documents and the presentation of the abstracts in the form of an exhibit. However, before making this requirement, the presiding officer shall see that all parties at interest who have made an appearance are given the right to examine the documents from which the abstracts are made.

RULE 6.7 EXHIBITS OFFERED AFTER CLOSING: Unless authorized by the presiding officer, a party may not file an exhibit after the hearing or other proceeding has been closed. The presiding officer shall provide the opportunity for interested parties to view any exhibit authorized to be filed by a party after the hearing or other proceeding is closed.

RULE 6.8 ADMISSIBILITY: Evidence will be admitted if it is of that quality which responsible persons are accustomed to rely on in the conduct of serious affairs. It is intended that needful and proper evidence shall be produced conveniently, inexpensively and speedily, while preserving the substantial rights of the parties to the proceeding. The presiding officer rules on the admissibility of evidence.

If any other member of the body conducting the hearing so requests, the presiding officer shall consult with the other members on any ruling he makes or before making a ruling.

Although relevant, that is, having any tendency to make the existence of any fact that is of consequence to the subject more probable or less probable than it would be without it, evidence may be excluded if its probative value is substantially outweighed by the danger of confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

RULE 6.9 STIPULATION: Any information maintained in the District's files and all prior testimony and information relevant to a particular proceeding may be considered by the hearing body. Other evidence may be stipulated by agreement of all parties at interest appearing at the hearing or other proceeding.

RULE 6.10 RELEVANCE: The testimony shall be confined to the subject matter contained in the notice, application, or pleadings; the presiding officer may terminate any testimony which is irrelevant, incompetent, or immaterial. In the event that any party pursues a line of testimony or interrogation of a witness that is clearly irrelevant, incompetent or immaterial, the presiding officer may terminate that line of interrogation. The presiding officer may limit testimony where necessary for expeditious proceedings.

RULE 6.11 HEARSAY: Hearsay evidence is admissible if it is relevant. The weight to be given to hearsay evidence will be a matter of discretion for the hearing body.

RULE 6.12 PRIVILEGE: The presiding officer shall give effect to any rules of privilege recognized by the Constitution of the United States or by the Constitution or laws of the State of Texas.

RULE 6.13 LIMITING NUMBER OF WITNESSES: The presiding officer may limit the number of witnesses appearing at the hearing or other proceeding when the testimony will be merely cumulative.

RULE 6.14 OBJECTIONS AND EXCEPTIONS: Formal exception to a ruling of the presiding officer is not necessary. It is sufficient if the party at the time the ruling is made or sought makes known to the presiding officer the action which he desires.

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SECTION 7. PERMITS

RULE 7.1 APPLICATION: Before a well, which is located within the boundaries of the District and which is used or to be used for withdrawing groundwater may be drilled or operated, the well owner (the owner of the land whereon the well is located), or the primary operator of the well acting on behalf of the well owner, must obtain a permit, provided that there shall be only one permit issued per well. Any individual or entity desiring a permit, or an exemption as provided in Rule 10.3, should submit an application in accordance with the following guidelines:

Application forms for a permit or exemption will be provided by the District and may be obtained at the District Office, or by written request to the District. A separate application is required for each well for which a permit is requested.

An application fee, established by Board resolution, shall be paid.

When the application is received together with the proper application fee, additional information, if needed to complete the review, may be requested. Any additional information received will become a part of the application.

RULE 7.2 NOTICE OF PERMIT OR EXEMPTION APPLICATION: After receipt of a permit or exemption application, the General Manager will issue written notice indicating a date and time for a hearing on the application in accordance with these Rules. As many applications for permits deemed necessary or appropriate at one hearing may be considered, and such hearing may be continued from day to day.

RULE 7.3 PROTESTS AND COMMENTS: In the event a person desires to protest or comment on a permit or exemption application, it is requested that a written statement be filed at the District Office on or before the date on which the application has been set for permit hearing. In order to give the applicant the opportunity to prepare for the hearing, it is urged that the statement be filed with the District and a copy mailed to the applicant at least five (5) days before the date of the hearing. However, this request is in no way intended to limit participation in the hearing, and anyone who wishes to appear and make a presentation at the hearing will be heard, if appropriate and pertinent, in the sole discretion of the presiding officer.

It is requested that any person appearing and testifying at a hearing or filing a written statement comply substantially with the following: (i) state his name and address and whether or not he plans to attend the hearing; (ii) state the basis of his interest in the proceedings and should present any facts and data he has relative to the effects on subsidence which the well or proposed well has or may have; (iii) when-

ever property or a facility owned or operated by the person filing a statement is material to the statement, describe its location relative to applicant's well; and (iv) call attention to any amendment of the application or any adjustment which, if made, would result in withdrawal of any comments or objections he may have.

RULE 7.4 DECISION ON ISSUANCE OF PERMIT OR EXEMPTION: Within a reasonable period of time after concluding a permit or exemption hearing or after a hearing report is accepted without requiring additional information from applicant, but not more than thirty-five (35) days later, the Board must decide whether a permit is to be issued or an exemption granted. In its decision on issuance and in setting the terms of a permit, the Board considers all relevant factors, and particularly the District Plan; the quantity, quality, and availability of surface water at prices competitive with those charged by suppliers of surface water within the District; the economic impact on the applicant from grant or denial of the permit or the terms of the permit, in relation to the effect on subsidence which would result therefrom.

RULE 7.5 ISSUING PERMIT REQUIRED: The Board shall issue a permit whenever it is found upon presentation of adequate proof that there is no other available substitute or supplemental source of surface waters at prices competitive with those charged by suppliers of surface water within the District and that compliance with any provision of the Act, or any rule or regulation of the District, will result in an arbitrary taking of property or in closing or eliminating any lawful business, occupation, or activity, in either case, without sufficient corresponding benefit or advantage to the public.

Furthermore, no city of less than 100,000, according to the last preceding federal census, shall be required to reduce its groundwater withdrawal more than fifty percent (50%) in any three (3) year period if the city or its residents would face a hardship on account of such reduction, provided satisfactory evidence is presented to the Board in public hearing and the Board determines that such reduction would constitute a hardship to the city or its residents. A hardship shall mean any reduction in groundwater withdrawal that would: (i) cause the city to have an inadequate supply of water for its residents; or (ii) cause an increase of fifty percent (50%) or more in water rates for the city or its residents.

RULE 7.6 REFUSAL OR MODIFICATION OF PERMIT REQUEST: Where the Board has determined that it has accumulated sufficient evidence, the Board may refuse to issue permits or it may limit groundwater withdrawal whenever the applicant has requested a maximum annual withdrawal greatly in excess of that which the evidence indicates that he could possibly withdraw or that he might reasonably need for the purpose listed in the application, or the Board has evidence which indicates

that the applicant has available to him an alternative source of water, or that such an alternative source could be utilized with the exercise of reasonable diligence within one (1) year or a reasonable time in light of the permit term, and the location of the well which is the subject of the application is such that the withdrawal of groundwater therefrom will have a substantial effect on subsidence.

The Board may also modify any of the terms or requests of the permit applicant whenever it deems it appropriate in order to carry out its duties under the Act.

RULE 7.7 ISSUANCE AND FORMAT: If the Board decides to issue a permit, it shall be dated and issued on the date of decision, but its effectiveness shall be contingent upon receipt of the permit fee. If permit fees are not received within forty-five (45) days, the General Manager is authorized to proceed with enforcement action as provided in these Rules. The permit shall include the following information in a format approved by the General Manager: the name and address of the person to whom the permit is issued; the location of the well; the date the permit is to expire; the maximum withdrawal under the order for any time period and from time to time; any monitoring and reporting requirement prescribed by the Board; conditions and restrictions placed on the withdrawal of groundwater; and any other terms and conditions necessary to accomplish the purposes of the Act.

RULE 7.8 PERMIT CONDITIONS AND REQUIREMENTS: All permits are granted subject to the Rules, regulations, and orders of the Board, and the laws of the State of Texas. In addition to any Special Provisions or other requirements, each permit issued shall contain the following conditions and Requirements:

1. This permit is granted in accordance with the provisions of House Bill 552, Texas Laws 1975, Chapter 284, V.A.T.S. Water Auxiliary Laws, Table III as amended by House Bill 390, Acts of the 65th Legislature (herein "Act"), and the rules, regulations and orders of the Harris-Galveston Coastal Subsidence District (herein "Subsidence District"), and as may be in effect from time to time, and acceptance of this permit constitutes an acknowledgment and agreement that the permittee will comply with all the terms, provisions, conditions, requirements, limitations and restrictions embodied in this permit and with the rules, regulations and orders of the Subsidence District.
2. This permit confers no vested rights in the holder, and this permit is non-transferable. Written notice must be given to the Subsidence District by the permittee prior to any sale or lease of the well covered by this permit. The permit may be

revoked or suspended, for failure to comply with its terms as issued or amended, and its terms may be modified or amended pursuant to the requirements of the Act and any applicable rules, regulations and orders of the Subsidence District.

3. The operation of the well for the authorized withdrawal shall be conducted in a non-wasteful manner.
4. The permittee shall keep accurate records, on a monthly basis, of the amount of groundwater withdrawn and the purpose of the withdrawal, and such records shall be available for inspection by the Subsidence District representatives. Immediate written notice shall be given to the Subsidence District in the event a withdrawal exceeds the quantity authorized by this permit.
5. The well site shall be accessible to Subsidence District representatives for inspection at all times, and the permittee agrees to cooperate fully in any reasonable inspection of the well and well site by the Subsidence District representatives.
6. The application pursuant to which this permit has been issued is incorporated herein, and this permit is granted on the basis of and contingent upon the accuracy of the information supplied in that application and in any amendments thereof. A finding that false information has been supplied shall be grounds for immediate revocation of the permit. In the event of conflict between the provisions of this permit and the contents of the application, the provisions of this permit shall control.
7. Driller's logs must be submitted within thirty (30) days of the completion of a new well. Monitoring of groundwater pumpage is to be accomplished in the manner specified in the Subsidence District's metering policy, and any modifications thereto.
8. Violation of this permit's terms, conditions, requirements, or Special Provisions, including pumping amounts in excess of authorized withdrawal, shall be punishable by civil penalties as provided by Section 47 of the Act.
9. Wherever Special Provisions are inconsistent with other provisions or regulations of the Subsidence District, the Special Provisions shall prevail.

RULE 7.9 AGGREGATION OF WITHDRAWAL: In issuing a permit, the authorized withdrawal for a given well may be aggregated with the authorized withdrawal from other permitted wells. Geographic location of

wells and integrated distribution systems will be considered in determining whether or not to allow aggregation of withdrawal. For the purpose of categorizing wells by the amount of groundwater production, where wells are permitted with an aggregate withdrawal, the aggregate value shall be assigned to each well, rather than allocating to each well its pro rata share or estimated production.

RULE 7.10 PERMIT TERM: Unless the Board specifies otherwise, permits are effective for a term ending one (1) year after the last day of the calendar month of issuance. (Illustration: A permit issued on September 14, 1977 would expire on September 30, 1978). The Board may issue a permit with an option to extend for a specified term upon payment of the then current permit fee (the permit fee in effect for the extension period) or for a term longer than one (1) year, but not to exceed five (5) years, when to do so aids the District in the performance of its duties and will not impair the District's ability to control subsidence.

RULE 7.11 GROUNDWATER PUMPAGE REPORTS: At the request of the District, on forms approved by the General Manager, well owners or primary operators must utilize, a self-reporting system for periodic recording of groundwater withdrawal in addition to the reporting requirements under the Act. Before January 31 of each year, each permit holder must submit to the District a report stating the name of the owner of the well; the location of the well; the total amount of groundwater produced by the well during the immediately preceding calendar year (January through December); the total amount of groundwater produced by the well during each separate month of the immediately preceding calendar year; the purpose for which the groundwater was used; the date on which the permit will expire; and a statement of any expected changes in groundwater needs in the next five (5) years.

RULE 7.12 EFFECT OF ACCEPTANCE OF PERMIT: Acceptance of the permit by the person to whom it is issued constitutes an acknowledgment and agreement to comply with all of the terms, provisions, conditions, limitations, and restrictions embodied in the permit and with the Rules and other Board orders.

RULE 7.13 REVOCATION, TERMINATION, CANCELLATION OR MODIFICATION OF PERMITS: Since a permit does not become a vested right in the holder, the Board may revoke, suspend, terminate, or cancel a permit, or modify or amend its terms at any time after notice and hearing. Notice and public hearing must again be carried out in the manner provided by Section 5 of these Rules.

RULE 7.14 PERMIT NOT TRANSFERABLE: No permit issued under the Act is transferable, and any individual who becomes the owner (or primary operator on behalf of the owner) of a well for which a permit is

required must make application for a permit. Written notice must be given to the District by the permit holder prior to any sale or lease of the well covered by the permit.

RULE 7.15 PERMIT RENEWAL: Permits for wells may be renewed by the Board following application and hearing. Since permits do not become vested rights in the permit holder, there is no automatic right of renewal.

RULE 7.16 PERMIT FEE: Upon issuance or renewal of a permit, the District shall collect from the permit holder a fee, the applicable permit fee adopted by the Board and established by schedule, based on the permit term and the maximum annual amount of groundwater authorized by the Board to be withdrawn from the well.

If a permit was required under Section 19 of the Act and such permit has not been issued due to the failure of the owner, operator or driller to obtain such permit, no permit may be issued until all permit fees which would have been due and payable from January 2, 1976, for the withdrawal of groundwater during the unpermitted time, are paid.

RULE 7.17 PERMIT MODIFICATION INCREASING AUTHORIZED WITHDRAWAL:

a. **REQUESTS:** Requests by permit holders for permit modifications increasing maximum authorized withdrawal will be considered after the proper filing of a permit modification form prior to the withdrawal of the groundwater. The form fee for a permit modification established by Board resolution is to be paid at the time of application. Applicants for permit modification must present adequate proof that (i) due to unforeseeable circumstances beyond the control of the permit holder, the amount of withdrawal requested has proved to be inadequate; (ii) there is no adequate and reasonable available substitute or supplemental source of surface water at a rate competitive with that charged by suppliers of surface water within the District; and (iii) the standards for granting an initial permit have been met, and an initial permit would have been granted for the total allowable withdrawal as the permit is to be modified.

No requests by permit holders for permit amendment increasing the authorized withdrawal is allowed if the withdrawal has already occurred. If the General Manager determines that an authorized withdrawal has been exceeded, he may proceed at once with enforcement action as provided in these Rules.

b. **ACTION ON REQUESTS:** If the permit holder's requests for total increased withdrawal are not in excess of ten percent (10%) of the initial Board authorized withdrawal, and not more than 12,000,000 gallons, from the particular well, or group of wells in the event of an aggregate withdrawal, the General Manager, provided he is satisfied that the appli-

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cant has submitted adequate proof of the matters described in Rule 7.17a. above, may rule on the request, and if the request is granted, revise the permit only in terms of authorized withdrawal, by issuing an amended permit, without further Board action, upon payment of the applicable fees. Any applicant dissatisfied with the General Manager's ruling may appeal from that ruling to the Board, only by filing at the District Office within ten (10) days after notice of the ruling of the General Manager, a notice of such appeal and a request for hearing before the Board. The Board must grant such request for hearing unless it determines the request is made in bad faith. The Board shall conduct such hearing within forty (40) days from the date it grants the request for hearing. If the request for increased withdrawal is greater than ten percent (10%) of the authorized withdrawal, or more than 12,000,000 gallons, notice shall be issued and a hearing conducted and other action taken in the manner prescribed for permit issuance.

Permit modifications increasing authorized withdrawal shall be granted when the failure to authorize the additional withdrawal would result in the practical closing and elimination of any lawful business, occupation, or activity without sufficient corresponding benefit or advantage to the public; however, temporary business losses not resulting in the elimination or closing of a business shall not give rise to the operation of this provision.

c. INCREASED PERMIT FEES: The permit fee to be assessed for the additional withdrawal granted shall be the greatest of: (i) the rate charged for the issuance of the original permit multiplied by the additional withdrawal granted; (ii) the rate in effect at the time of issuance of the amended permit multiplied by the additional withdrawal granted; (iii) the rate in effect at the time of most recent renewal if the permit period for which modification is requested is subsequent to a renewal, multiplied by the additional withdrawal granted; or (iv) \$1.00.

There shall be no permit fee assessed where the amendment granted is one for aggregation only, without a corresponding increase in authorized withdrawal.

RULE 7.18 PERMIT MODIFICATION REDUCING AUTHORIZED WITHDRAWAL:

a. REQUESTS: Requests by permit holders for permit modification reducing maximum authorized withdrawal ("reduction modification") shall be heard after a permit modification form is properly filed with the District. The form fee established by Board resolution is to be paid at the time of application.

Applications for reduction modifications shall be in three categories: those based on a bona fide mistake or miscalculation in the permit appli-

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cations, those based on a conversion to surface water, and those based on changes in agricultural production quotas.

- (1) Reduction modifications based on mistake or miscalculation shall be granted under the following circumstances, provided that application for reduction modification is made within ninety (90) days of the date of issuance of the permit:
 - (i) Applicant is not delinquent in payment of the permit fee assessed by the District, except insofar as that portion attributable to the reduction modification; and
 - (ii) Applicant establishes by presentation of clear and convincing evidence: that a material mistake or miscalculation was made in completing the permit application or in evidence presented; that such mistake or miscalculation was not negligently made; that the standards established for granting a permit have been met, and that an initial permit, as modified by the reduction modification, would have been granted if the mistake or miscalculation had not been made; and that the initial permit would have stated a maximum authorized withdrawal in a lesser amount than was actually issued, if the mistake or miscalculation had not been made.
- (2) Reduction modifications based on conversion to surface water shall be granted under the following circumstances:
 - (i) Applicant is not delinquent in payment of the permit fee assessed by the District, except insofar as that portion attributable to the reduction modification; and
 - (ii) Applicant establishes by presentation of clear and convincing evidence: that the estimate of groundwater needs stated in the original application was a good faith estimate based on a reasonable assessment of groundwater requirements; and that applicant can and will materially reduce its groundwater withdrawal by conversion to surface water, if granted a reduction modification; and
 - (iii) Applicant agrees to present proof thirty (30) days prior to the close of the permit term that applicant has reduced groundwater withdrawal by conversion to surface water, and conditions the permit modification upon the presentation of such proof.
- (3) Reduction modifications based on changes in government authorized or requested agricultural production quotas which are

imposed or modified following the issuance of a permit for an irrigation well system during the first three (3) months of the permit term, shall be granted under the following circumstances:

- (i) Applicant is not delinquent in payment of the permit fee assessed by the District, except insofar as that portion attributable to the reduction modification; and
- (ii) Applicant establishes by clear and convincing evidence: that agricultural production quotas have been authorized, requested, imposed or modified following permit issuance; and that because of such agricultural production quotas, the applicant does not need all or part of the previously authorized withdrawal.

b. ACTION ON REQUESTS: The General Manager, provided he is satisfied that the applicant has submitted adequate proof of the matters described in Rule 7.18a. above, may rule on the request, and if the request is granted, revise the permit only in terms of authorized withdrawal, by issuing an amended permit, without further Board action. Any applicant dissatisfied with the General Manager's ruling may appeal from that ruling to the Board only by filing at the District Office within ten (10) days after notice of the ruling of the General Manager, a notice of such appeal and a request for a hearing before the Board. The Board must grant such request for hearing unless it determines that the request is made in bad faith and shall conduct such hearing within forty (40) days from the date it grants the request for hearing.

c. REDUCTION OF PERMIT FEES: If the applicant has already paid the entire permit fee established for the permit as originally issued, the applicant shall be entitled to a refund of the amount by which the permit fee paid exceeds the appropriate permit fee under the permit as modified.

RULE 7.19 PERMIT FEE REBATES:

a. REQUESTS: Provided that a rebate request form is filed within ninety (90) days of permit termination, a permit holder may request a rebate by making application therefor to the District on forms to be provided for that purpose and payment of a form fee established by Board resolution.

b. ACTION ON REQUESTS: Applications for rebates shall be ruled upon by the General Manager. Rebates shall be granted when the applicant presents definitive independent, strict proof of the following: withdrawal less than the maximum authorized during the permit term; payment of the permit fee for the maximum authorized withdrawal; and

the applicant's original estimate of his groundwater needs was made in good faith, and represented a reasonable and prudent attempt to estimate those needs, or applicant's groundwater needs have been diminished due to conversion to surface water. Any applicant dissatisfied with the ruling of the General Manager may appeal from that ruling to the Board only by filing notice of such appeal at the District Office within ten (10) days after notice of the ruling of the General Manager. The Board must grant such request for hearing unless it determines that such request was made in bad faith and conduct such hearing within forty (40) days from the date it grants the request for hearing.

The District will not be required to hold hearings or to grant rebates where the reduction modification sought would produce a rebate of less than \$25.00. A water meter must be installed and operating for the full withdrawal period if a rebate is to be allowed. Use of a SMD in lieu of a water meter, except in an irrigational well system, excludes the well or well system utilizing the SMD in lieu of a water meter from being eligible for a rebate, if applicable, for unused groundwater allocation for any permit term in which the SMD was used in lieu of a water meter, whether the SMD was used in lieu of a water meter for the whole permit term or only a part of the permit term.

c. **REBATE FEES:** If it is determined that a permit fee rebate is to be granted, the permit holder shall be entitled to a rebate of the fees paid in excess of the permit fee which would have been due, based on this actual withdrawal, as determined by the General Manager, under the permit, less any charges then due the District. If the applicant for rebate receives a permit renewal, any rebate granted shall be applied as a credit against the renewal fee, provided the renewal fee has not been paid. If the amount of rebate should be in excess of the permit renewal fee owed, the excess, less any charges then due the District, shall be refunded to the permit holder. If the renewal fee for the current permit term has been paid, the rebate shall be paid to the permit holder after the final determination of the appropriate rebate, including the exhaustion of the appellate procedure. If the rebate applicant is not requesting a permit renewal, he shall so state in his rebate application, and in that event, he shall be refunded the amount of any rebate which he may be granted, less any charges then due the District.

RULE 7.20 EMERGENCY APPROVALS:

a. **TRANSFERS:** Upon application to the General Manager, the General Manager shall authorize a permitted withdrawal of water covered by a permit to be transferred to another well or a replacement well in the immediate vicinity of the permitted well whenever a satisfactory showing is made to him by the applicant that (i) it is necessary in order to alleviate an immediate and serious threat to human life or health, or to prevent extensive or severe property damage or economic loss to the

person proposing or requesting to make the transfer, and (ii) the replacement or transfer well will not endanger human life or health, and will not cause what would, under the particular circumstances, be unreasonable property damage or economic loss to others, or unnecessarily cause subsidence. The General Manager may issue a temporary order authorizing the withdrawal of water without notice and hearing, or with such notice and hearing as the General Manager, in his judgment, deems practicable under the circumstances.

b. **EMERGENCY WITHDRAWALS:** Upon application to the General Manager, the General Manager shall authorize withdrawal of water not covered by a permit whenever a satisfactory showing is made to him by the applicant that (i) an emergency exists due to acts of God or nature or other disaster, (ii) the withdrawal of water not covered by a permit is necessary in order to alleviate an immediate and serious threat to human life or health, or to prevent extensive or severe property damage, or economic loss to the person requesting the withdrawal, and (iii) the withdrawal will not endanger human life or health, and will not cause what would under the particular circumstances be unreasonable property damage or economic loss to others, or unnecessarily cause subsidence. The General Manager may issue a temporary order authorizing the withdrawal of water without notice and hearing, or with such notice and hearing as the General Manager, in his judgment, deems practicable under the circumstances.

c. **EMERGENCY PERMIT FEES:** A permit fee shall be charged equal to that established by the Board by schedule based on the maximum amount of groundwater authorized to be withdrawn.

d. **PROCEDURAL REQUIREMENTS:** A copy of every order entered by the General Manager under this Rule shall be sent by certified mail to the person or persons to whom it is directed. However, when the time factor is critical, the order may be delivered in person, transmitted by telephone or telegraph, or delivered by any other satisfactory method, but it shall be promptly followed by the written order sent by certified mail. If the order authorizes a new, transfer, or replacement well, the person to whom the order is issued may not cause or undertake drilling of the well under the order except in strict compliance with its terms and conditions.

Any such emergency ruling by the General Manager shall be approved or disapproved by the Board at its next regular monthly meeting. Pending the Board's action, the General Manager's order shall be given full effect.

Any applicant dissatisfied with an emergency ruling or order may appeal by requesting a rehearing before the entire Board within ten (10) days of the General Manager's ruling. The Board must grant all requests for

rehearing unless the Board determines such request is made in bad faith and will conduct such rehearing within forty (40) days of the date it grants the request for rehearing.

Any applicant receiving a temporary order under this Rule shall make timely application for permit or permit amendment, and the application shall be processed, in the manner provided in these Rules. If the action covered by the emergency order for transfer or amendment is approved by the Board, following the application and hearing, the emergency permit fee, where appropriate, may be credited toward payment of applicable permit fees.

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SECTION 8. METERING POLICY

RULE 8.1 WATER METER REQUIRED: A water meter, properly installed according to the manufacturer's specifications, is required on all wells drilled or permitted within the District.

RULE 8.2 WATER METER EXCEPTIONS:

a. TEMPORARY EXCEPTION: In order to avoid undue hardship on existing well owners with wells existing as of July 13, 1978, and only until January 1, 1980:

(i) No meter is required on such existing wells having a casing diameter of five (5) inches or less and an estimated annual withdrawal of twelve million (12,000,000) gallons or less where the previous year's withdrawal was twelve million (12,000,000) gallons or less; and

(ii) A secondary measuring device or SMD may be used in lieu of a required water meter: on such existing well in an irrigation well system; on such existing well which has an estimated annual ground-water withdrawal of twelve million (12,000,000) gallons or less, provided that no more than fifteen million (15,000,000) gallons were withdrawn from the well during the previous calendar year; or on such existing well which will be deactivated, abandoned or plugged during the permit term, provided that the well owner or primary operator submits an affidavit to such effect prior to permit issuance.

However, the use of water meters on such existing wells is encouraged prior to January 1, 1980, and if there is a water meter or SMD currently installed and operating on such existing well, the well owner or primary operator must maintain, as a minimum, that metering capability.

b. SMALL WELLS: The following discretionary exceptions from the water meter requirement are authorized:

(i) Wells five (5) inches or less in casing diameter with estimated pumpage of five million (5,000,000) gallons per year or less and which are not connected with any other well; and

(ii) Wells in aggregate or interconnected systems in which all wells are five (5) inches or less in casing diameter and where the aggregate or interconnected system has an estimated pumpage of five million (5,000,000) gallons per year or less; and

(iii) Wells used exclusively for water quality monitoring provided such wells produce no more than five thousand (5,000) gallons per year.

If evidence is presented at a hearing which indicates that the well or wells do not meet the casing diameter, pumpage or purpose requirements

of the exceptions, or where there is no reasonable basis for determining the pumpage, the Board may require that water meters be installed within a specified time period.

RULE 8.3 METERING AGGREGATE WITHDRAWAL: Where wells are permitted in the aggregate, one water meter may be used for the aggregate well system if the water meter is installed so as to measure the groundwater production from all wells covered by the aggregate permits. Where wells are permitted in the aggregate, and an SMD may be used in lieu of a water meter until January 1, 1980, an SMD must be installed on each well within the aggregate system.

RULE 8.4 WATER METER VERIFICATION: The General Manager may require the well owner or primary operator at his expense to test and calibrate the water meter on each permitted well and provide the District with a certification in affidavit form of the test results and accuracy calibrations in a form provided by, or in a format approved by, the General Manager, but not more often than once every five (5) years. At any time the District, at its expense, may also undertake random investigations for the purposes of verifying water meter readings, acquiring data for alternate calculations of groundwater withdrawal, estimating capability of well, determining water levels and acquiring such other information helpful to the District in carrying out goals under the Act. If the District's verification reveals that a water meter is not within an accuracy of five percent (5%), the well owner or primary operator must reimburse the District for its cost of verification and undertake immediate repair, replacement, or correction of the water meter. The District may select certain wells, and may install water meters or SMDs or both on said wells, for the purpose of monitoring groundwater withdrawal and constructing estimation factors at District expense.

RULE 8.5 WATER METER READINGS AND LOGS: The well owner or primary operator must read each water meter, and record the pumpage in a log for such purpose at least monthly for wells owned or operated within the District. The logs containing the periodic recordings or pumpage shall be available for inspection by the District at reasonable business hours and copies must be furnished to the District upon request.

RULE 8.6 WATER METER SEALS: The District at its expense may seal water meters required to be installed by these Rules by physical means and may tag such water meters to indicate they have been sealed. The well owner or primary operator shall report any alteration, damage or removal of the water meter seal at once to the District and request repair of the seal. Tampering with, altering, damaging or removing the water meter seal, or in any way violating the integrity of the seal shall constitute a violation of these Rules and shall subject the person performing the action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided in the Act and these Rules.

SECTION 9. ENFORCEMENT

RULE 9.1 NOTICE AND ACCESS: Board members, the General Manager and District agents and employees, when carrying out technical and other investigations necessary to the implementation of the Rules or the Act, shall give written notice or notice in person or by telephone to the owner, primary operator, or agent of the well as determined by information contained in application on file with the District or subsequent information filed with and in possession of the District, before entering upon private property for the purpose of inspecting and investigating conditions relating to the withdrawal of groundwater by wells. Notice shall also state that the inspection, technical or other investigation is authorized under Section 31 of the Act. Should Board members, the General Manager or District agents or employees be denied access, or be inhibited or prohibited in attaining access to property, for the purposes of inspecting and investigating conditions relating to the withdrawal of groundwater by water wells, the District may have the remedies authorized in Section 47 of the Act and these Rules.

RULE 9.2 CONDUCT OF INVESTIGATION: Where investigations or inspections require entrance upon private property, such investigations and such inspections shall be conducted at reasonable times, and shall be consistent with the establishment's rules and regulations concerning safety, internal security and fire protection. The persons conducting such investigations shall identify themselves and present credentials upon request by the owner, lessee, management in residence, or person in charge of the well.

RULE 9.3 SEALING OF WELLS: The District may seal wells which are prohibited from withdrawing groundwater within the District by the Act or by Rules or Board orders when the General Manager, or his designated District employees, determine that such action is reasonably necessary to assure that a well is not operated in violation of the Act or Rules or Board orders. This authorization to seal a well or to take other appropriate action to prohibit the withdrawal of groundwater extends to, but is not limited to, the following circumstances where: (i) a permit has been granted, but the permit fees have not been paid within the time period provided for payment; (ii) representations have been made by the well owner or primary operator that no groundwater is to be withdrawn from a well during a particular period; (iii) no application has been made for a permit to withdraw groundwater from an existing well which is not excluded or exempted from the requirement that a permit be obtained in order to lawfully withdraw groundwater; or (iv) the Board has denied, cancelled or revoked a permit.

The well may be sealed by physical means, and tagged to indicate that the well has been sealed by the District, and other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well.

Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or the pumping of groundwater from a well which has been sealed shall constitute a violation of these Rules and shall subject the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by the Act and these Rules.

RULE 9.4 REQUEST FOR INJUNCTIVE RELIEF AND ASSESSMENT OF PENALTIES:

a. **BY BOARD:** If it appears that a person has violated, is violating or threatening to violate any provision of the Act or any Rule, regulation, permit, Board order or other order of the District, the Board shall request the Attorney General of Texas to institute and conduct a suit in the name of the District for injunctive relief or to recover a civil penalty or for both injunctive relief and penalty.

b. **BY GENERAL MANAGER:** If the General Manager determines that a person has violated, is violating or threatening to violate any provision of the Act or any Rule, regulation, permit, Board order or other order of the District, he may request the Attorney General to institute and conduct a suit in the name of the District for injunctive relief, or to recover a civil penalty of not less than \$50 nor more than \$5,000 for each day and for each violation, or for both injunctive relief and penalty.

At the time the General Manager determines to request the Attorney General to file a suit, he shall cause all members of the Board to be so notified in writing.

At the request of any three members of the Board made within seven (7) days from the date of the letter of notification of the General Manager's decision, the matter shall be placed on the agenda of the next meeting of the Board for review by the Board.

In the event less than three members of the Board request review of the General Manager's decision within seven (7) days of the date of the letter of notification, the General Manager's decision to file suit shall become final and he shall forward his written request to the Attorney General of Texas to file a suit.

For the purpose of full and accurate documentation, the General Manager shall cause to be maintained in written form a record of all lawsuits requested. Such record shall disclose the date on which each Board member was notified of the General Manager's decision to request suit and whether any Board member requested review within seven (7) days after such notification.

RULE 9.5: PRIOR APPROVAL OF WATER DISTRICT CREATION:

Prior to the submission of a petition to a municipality or county for its consent to creation, but not later than sixty (60) days prior to submission of a petition to the Texas Water Commission for the creation, within Harris or Galveston Counties, of a "water district" (including, without limitation, a municipal utility district, fresh water supply district, water control and improvement district, utility district, public utility district, etc., or any other conservation and reclamation district provided for by general or special law) which expects to utilize groundwater, petitioners shall first submit preliminary engineering data to the District. Such data shall be sufficient to be used by the District to assess whether groundwater can be produced without detrimental effect in the quantities necessary to support the complete development to be served by the proposed water district. If the District formulates recommendations and/or comments, the General Manager may submit them to the appropriate state, county, or municipal official or agency, and if necessary, the recommendations and/or comments may be presented at any public hearing called to consider creation of the water district under consideration.

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SECTION 10. EXCLUSION AND EXEMPTION OF WELLS

RULE 10.1 AUTOMATIC EXCLUSIONS: The Act and these Rules do not apply to (i) wells regulated under the provisions of V.T.C.A., Water Code, Chapter 27 [formerly Chapter 22] and (ii) shallow wells, commonly known as relief wells, producing water solely to prevent hazardous sand boils, dewater surface construction sites, or relieve hydrostatic uplift on permanent structures and not used to provide water for human consumption, agricultural use, manufacturing or industrial use, or water injection.

RULE 10.2 ONE SMALL WELL EXCLUSION: The Act and these Rules do not apply where the person owns only one well within the District and that one well has a casing diameter of five (5) inches or less. No person is eligible for exclusion of more than one well. If a person has a partial ownership or has a beneficial interest in more than one well, such person will be deemed to be a well owner for no exclusions under this Rule.

RULE 10.3 DETERMINATION REQUIRED FOR SMALL SINGLE-FAMILY WELL EXEMPTION: If a person has a well with a casing diameter of five (5) inches or less and the well serves one single-family dwelling, and the well has a negligible effect on subsidence, the Board may exempt such well from the provisions of the Act and these Rules provided the well owner has applied for exemption as provided in Rule 7.1 and a hearing has been conducted in accordance with these Rules.

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